

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Avibank Mfg., Inc.
11500 Sherman Way
North Hollywood, California 91605

ID No.: CAR 000 016 428

Respondent.

Docket HWCA20071480

CONSENT ORDER

Health and Safety Code
Section 25187

1. INTRODUCTION

1.1. Parties. The California Department of Toxic Substances Control (Department) and Avibank Mfg., Inc. (Respondent) enter into this Consent Order (Order) and agree as follows:

1.2. Site. Respondent generates, handles, treats, stores, and/or disposes of hazardous waste at the following site: 11500 Sherman Way, North Hollywood, California 91605 (Site).

1.3. Inspection. The Department inspected the Site on May 10-11, 2007.

1.4. Jurisdiction. Health and Safety Code section 25187, authorizes the Department to order action necessary to correct violations and to assess a penalty when the Department determines that any person has violated specified provisions of the Health and Safety Code or any permit, rule, regulation, standard, or requirement issued or adopted pursuant thereto.

1.5. Full Settlement. This Order shall constitute full settlement of the violations alleged below. The Parties, and each of them, agree that this Order, and all of the terms contained herein, are fair, reasonable, and in the public interest. By agreeing to this Order, the Department does not waive any right to take other enforcement actions except as specifically provided in this Order.

1.6. Hearing. Respondent waives any and all rights to a hearing in this matter.

1.7. Admissions. Respondent admits the violations as alleged in Section 2 below.

2. VIOLATIONS ALLEGED

2.1. The Department alleges the following violations:

2.1.1. The Respondent violated Health and Safety Code section 25201, subdivision (a) in that the batch treatment tank which was authorized under the Conditionally Authorized tier of tiered permitting is not eligible for authorization under this tier. The correct tier for authorization is Permit By Rule (PBR). As a result of this, the facility has not completed a closure plan or waste analysis plan as would be required of a PBR authorized treatment unit according to California Code of Regulations, title 22, section 67450.3.

2.1.2. The Respondent violated California Code of Regulations, section 67450.3, subdivision (c)(9)(F) and section 66265.192 in that the tank integrity and secondary containment assessment for the batch treatment tank did not contain all of the required information. The assessment provided contained only a statement that the containment systems are in full compliance with California Code of Regulations, title 22, Chapter 15, Article 10.

2.1.3. The Respondent violated California Code of Regulations, title 22, section 66262.34 subdivision (a) in that one 275-gallon tote holding waste coolant was accumulated for longer than allowable time periods. The tote was noted with an accumulation start date of October 12, 2006, and Respondent may not accumulate waste onsite for more than 90 days without permit.

3. SCHEDULE FOR COMPLIANCE

3.1. Respondent shall comply with the following:

3.1.1. Respondent has corrected the violations set forth above.

3.1.2. Respondent shall make all payments at the time(s) and in accord with any

other conditions set forth in Section 5 (Penalty) below.

4. OTHER PROVISIONS

4.1. Liability. Nothing in this Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of Respondent, except as provided in this Order. Notwithstanding compliance with the terms of this Order, Respondent may be required to take such further actions as are necessary to protect public health or welfare or the environment.

4.2. Penalties for Noncompliance. Failure to comply with the terms of this Order may subject Respondent to costs, penalties and/or damages, as provided by Health and Safety Code section 25188, and other applicable provisions of law.

4.3. Parties Bound. This Order shall apply to and be binding upon Respondent and its officers, directors, agents, employees, contractors, consultants, receivers, trustees, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations, and upon the Department and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Order.

4.4. Integration. This agreement constitutes the entire agreement between the parties and may not be amended, supplemented, or modified, except as provided in this Order.

5. PENALTY

5.1. Respondent shall pay the Department the total sum of \$8,060, of which \$8,060 is a penalty.

5.2. The penalty shall be reduced by \$2,000 if, and only if, Respondent sends one employee, who handles or oversees the handling, storage, treatment or disposal of hazardous waste, to the California Compliance School, Modules I - V, and submits to the Department, within 180 days of the effective date of this Consent Order, Certificates

of Satisfactory Completion thereof. In the event that the above Certificates of Satisfactory Completion are not all received by the Department within 180 days of the effective date of this Consent Order, the entire remaining balance of \$2,000 shall then become due and payable.

5.3. Payment of \$6,060 is due within 30 days from the effective date of this Order.

5.4. Respondent's check(s) shall be made payable to Department of Toxic Substances Control, shall identify the Respondent and Docket Number, as shown in the caption of this case, and shall be delivered together with the attached Payment Voucher to:

Department of Toxic Substances Control
Accounting Office
1001 I Street, 21st floor
P. O. Box 806
Sacramento, California 95812-0806

A photocopy of the check(s) shall be sent to:

Charles A. McLaughlin, Chief
State Oversight and Enforcement Branch
Department of Toxic Substances Control
8800 Cal Center Drive
Sacramento, California 95826-3200

and

James J. Grace
Senior Staff Counsel
Office of Legal Counsel
Department of Toxic Substances Control
8800 Cal Center Drive
Sacramento, California 95826-3200

5.5. If Respondent fails to make payment as provided above, Respondent agrees to pay interest at the rate established pursuant to Health and Safety Code section 25360.1, and to pay all costs incurred by the Department in pursuing collection including attorney's fees.

6. EFFECTIVE DATE

6.1. The effective date of this Order is the date it is signed by the Department.

Dated: October 31, 2007

Original signed by Ralph Contreras
Ralph Contreras, Environmental Manager
Respondent

Ralph D. Contreras, Environmental Manager
Printed name and Title

Dated: November 6, 2007

Original signed by Maria Soria
Maria Soria, Section Chief
State Oversight and Enforcement Branch
Department of Toxic Substances Control